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UNITED STATES AND EUROPEAN UNION ANTITRUST AGENCIES ISSUE “BEST PRACTICES” FOR COORDINATING MERGER REVIEWS

WASHINGTON, D.C. – Charles A. James, Assistant Attorney General for the Antitrust Division, Federal Trade Commission Chairman Timothy Muris and European Union Competition Commissioner Mario Monti today released a set of “best practices” for coordinating future merger reviews. The best practices were developed by a joint working group of staff lawyers and economists from the three agencies.

The objectives of the best practices are to enhance cooperation between the U.S. antitrust agencies and the European Commission in merger review, minimize the risk of divergent outcomes and reduce burdens on parties participating in merger investigations. Many of the best practices have been in place informally for a long time. Formal adoption of the best practices will increase transparency and will provide important guidance to all participants in the process.

“The ‘best practices’ we released today institutionalize important forms of cooperation between the U.S. and EU antitrust authorities on merger reviews and publicly confirm our commitment to cooperate closely with our friends across the Atlantic,” said Mr. James. “They complement the reforms we made to our own merger processes last fall and are in the interests of both consumers and the business community.”

The best practices recommend that investigative staffs establish schedules for conferring with each other and encourage senior antitrust officials in the United States and the European Union to engage in discussions at key moments of one another’s investigations. They also offer

merging parties a meeting at an early point in each review to discuss timing issues. In addition, the best practices encourage joint interviews of parties and third-parties, where appropriate, and provide for increased coordination with respect to remedies.

These best practices evolved from the work done by the US-EU Merger Working Group, a group of lawyers and economists from the Antitrust Division, Federal Trade Commission and the European Commission devoted to promoting convergence between the United States and the European Union on merger policy. During the past year, this group focused on the details of each agency's merger review process and explored one another's policies toward conglomerate mergers. During the next year, the Merger Working Group will concentrate on the evaluation of efficiencies and competitive effects in oligopolistic markets.

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